



DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-858]

Certain Lemon Juice from Brazil: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain lemon juice (lemon juice) from Brazil is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2020, through September 30, 2021. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian or Dakota Potts, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6412 or (202) 482-0223, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on January 25, 2022.¹ On May 19, 2022, Commerce postponed the preliminary determination of this investigation and the revised deadline is now July 28, 2022.² For a complete description of the events that followed the initiation of this investigation, *see the*

¹ See *Lemon Juice from Brazil and South Africa: Initiation of Less-Than-Fair-Value Investigations*, 87 FR 3768 (January 25, 2022) (*Initiation Notice*).

² See *Certain Lemon Juice from Brazil and the Republic of South Africa: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 87 FR 30452 (May 19, 2022).

Preliminary Decision Memorandum.³ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The product covered by this investigation is lemon juice from Brazil. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*. Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*. *See* the scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

³ *See* Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Lemon Juice from Brazil," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁵ *See Initiation Notice*.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce calculated estimated weighted-average dumping margins for the mandatory respondents, Citrus Juice Eireli (Citrus Juice) and Louis Dreyfus Company Sucos S.A. (LDC), that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate by applying a simple average of the estimated weighted-average dumping margins that it calculated for the individually examined respondents.⁶

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)
Citrus Juice Eireli ⁷	21.49
Louis Dreyfus Company Sucos S.A.	4.45

⁶ With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data was unavailable, Commerce based the all-others rate on the simple average of the estimated weighted-average dumping margins of the mandatory respondents. For a complete analysis of the data, please see the All-Others Rate Calculation Memorandum.

⁷ Commerce preliminarily determines that Citrus Juice Eireli and Sucos Kiki Eireli are a single entity. *See* Preliminary Decision Memorandum; *see also* Memorandum, "Analysis Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Certain Lemon Juice from Brazil: Citrus Juice Eireli," dated July 28, 2022.

All Others	12.97
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Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Should the final estimated weighted-average dumping margin be zero or *de minimis* for the producer/exporter combinations identified above, entries of shipments of subject merchandise from these producer/exporter combinations will be excluded from the potential antidumping duty order. Such exclusions are not applicable to merchandise exported to the United States by these respondents in any other producer/exporter combinations or by third parties that sourced subject merchandise from the excluded producer/exporter combinations. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no

public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.⁸ Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.⁹ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days after the date of publication of this notice. Requests should contain 1) the party's name, address, and telephone number; 2) the number of participants; 3) whether any participant is a foreign national; and 4) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

⁸ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

⁹ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On July 21, 2022, pursuant to 19 CFR 351.210(e), Citrus Juice requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.¹⁰ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary

¹⁰ See Citrus Juice's Letter, "Lemon Juice from Brazil: Request for Postponement of Final Antidumping Determination," dated July 21, 2022.

determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c) and 9 CFR 351.210(g).

Dated: July 28, 2022.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The product covered by this investigation is certain lemon juice. Lemon juice is covered: (1) with or without addition of preservatives, sugar, or other sweeteners; (2) regardless of the GPL (grams per liter of citric acid) level of concentration, brix level, brix/acid ratio, pulp content, clarity; (3) regardless of the grade, horticulture method (*e.g.*, organic or not), processed form (*e.g.*, frozen or not-from-concentrate), the size of the container in which packed, or the method of packing; and (4) regardless of the U.S. Department of Agriculture Food and Drug Administration (FDA) standard of identity (as defined under 19 CFR 146.114 et seq.) (*i.e.*, whether or not the lemon juice meets an FDA standard of identity).

Excluded from the scope are: (1) lemon juice at any level of concentration packed in retail-sized containers ready for sale to consumers; and (2) beverage products, such as lemonade, that contain 20 percent or less lemon juice as an ingredient by actual volume. “Retail-sized containers” are defined as lemon juice products sold in ready-for-sale packaging (*e.g.*, clearly visible branding, nutritional facts listed, *etc.*) containing up to 128 ounces of lemon juice by actual volume.

The scope also includes certain lemon juice that is blended with certain lemon juice from sources not subject to this investigation. Only the subject lemon juice component of such blended merchandise is covered by the scope of this investigation. Blended lemon juice is defined as certain lemon juice with two distinct component parts of differing country(s) of origin mixed together to form certain lemon juice where the component parts are no longer individually distinguishable.

The product subject to this investigation is currently classifiable under subheadings 2009.31.4000, 2009.31.6020, 2009.31.6040, 2009.39.6020, and 2009.39.6040 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope of the Investigation
- V. Postponement of Final Determination and Extension of Provisional Measures
- VI. Affiliation/Single Entity
- VII. Discussion of the Methodology
- VIII. Currency Conversion
- IX. Recommendation

[FR Doc. 2022-16640 Filed: 8/3/2022 8:45 am; Publication Date: 8/4/2022]